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April 22, 2022

VIA CM/ECF

Judge Nelson S. Román
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

USDC SDNY
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Re: *Mitchell, et al. v. Parkview Operating Co., LLC, et al.*
Case No.: 7:22-cv-02357-NSR

Dear Judge Román:

Please accept this joint request by all parties to hold motion practice in abeyance pending resolution of the Appeals pending before the United States Court of Appeals for the Second Circuit in *Rivera-Zayas v. Our Lady of Consolation* (Docket No.: 21-2164) and *Leroy v. Hume* (Docket No.: 21-2158, 21-2159).

I advise this Court that I have met and conferred with Dylan Braverman, counsel for the Defendants, regarding this matter and potential motion practice. This Court has already granted Defendant leave to move to dismiss. It was plaintiff's intention to ask this Court for leave to move to remand.

After meeting and conferring, the parties agreed that it would be judiciously economical to hold the initial motion practice in this matter in abeyance pending the resolution of the above appeals which concern the scope and breadth of the PREP Act in terms of subject matter jurisdiction, embedded federal question and federal officer's jurisdiction.

Accordingly, Mr. Braverman and I respectfully jointly request that this Court stay and hold in abeyance motion practice, including a potential motion to remand and a motion to dismiss, pending a ruling by the Second Circuit on cases that will directly impact the issues that would be at issue. The parties propose informing the Court of the decision in those cases within one-week of any decision and providing this Court with a courtesy copy. At that time, the parties propose submitting a joint proposed scheduling order.

The parties are willing to discuss this at this Court's convenience.

Dated: April 25, 2022
White Plains, NY

The Court GRANTS the application and STAYS this action pending the 2d Cir.'s resolution of *Rivera-Zayas v. Our Lady of Consolation* (No. 21-2164) and *Leroy v. Hume* (Nos. 21-2158, 21-2159). The parties SHALL file a written status report within one week of the issuance of a decision in either of those cases. The Clerk of the Court is directed to terminate the motion at ECF No. 8.

Respectfully,

Joseph L. Ciaccio

SO ORDERED:

HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

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MEMO ENDORSED